

House File 417 - Introduced

HOUSE FILE 417
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 54)

A BILL FOR

1 An Act concerning benefits relating to members of the municipal
2 fire and police retirement system, and including effective
3 date and retroactive applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 411.1, subsection 11, Code 2021, is
2 amended to read as follows:

3 11. *"Infectious disease"* means HIV or AIDS as defined
4 in [section 141A.1](#), all strains of hepatitis, meningococcal
5 meningitis, and mycobacterium tuberculosis, blood borne
6 contagious diseases, and any other disease or virus determined
7 to be life-threatening to a person exposed to the disease or
8 virus that has been declared a pandemic, epidemic, or public
9 health emergency by the federal government, governor, or local
10 public health authorities.

11 Sec. 2. Section 411.1, subsection 14, Code 2021, is amended
12 by striking the subsection and inserting in lieu thereof the
13 following:

14 14. *"Member in good standing"* means any member in service
15 who has not been terminated by the employing city of the
16 member pursuant to section 400.18 or 400.19. Termination
17 procedures initiated by the chief of police or chief of the
18 fire department pursuant to section 400.19 shall not become
19 final or adversely impact a member's status as a member in
20 good standing until all appeals provided by an applicable
21 collective bargaining agreement or by law have been exhausted.
22 Disciplinary action other than discharge shall not adversely
23 affect a member's status as a member in good standing.

24 Sec. 3. Section 411.1, Code 2021, is amended by adding the
25 following new subsection:

26 NEW SUBSECTION. 15A. *"Ordinary disability beneficiary"*
27 means a member retired on an ordinary disability retirement
28 benefit pursuant to section 411.6, subsection 3, for five years
29 or less.

30 Sec. 4. Section 411.6, subsection 5, paragraphs a and b,
31 Code 2021, are amended to read as follows:

32 a. Upon application to the system, of a member in good
33 standing, of an ordinary disability beneficiary, or of the
34 chief of the police or fire departments, respectively, any
35 member in good standing or ordinary disability beneficiary

1 who has become totally and permanently incapacitated for duty
2 as the natural and proximate result of an injury or disease
3 incurred in or aggravated by the actual performance of duty
4 ~~at some definite time and place~~ or arising out of and in the
5 course of the employment, or while acting pursuant to order,
6 outside of the city by which the member is regularly employed,
7 shall be retired by the system if the medical board certifies
8 that the member or ordinary disability beneficiary is mentally
9 or physically incapacitated for further performance of duty,
10 that the incapacity is likely to be permanent, and that the
11 member or ordinary disability beneficiary should be retired.
12 However, if a person's membership in the system first commenced
13 on or after July 1, 1992, the member or ordinary disability
14 beneficiary shall not be eligible for benefits with respect to
15 a disability which would not exist, but for a medical condition
16 that was known to exist on the date that membership commenced.
17 A medical condition shall be deemed to have been known to exist
18 on the date that membership commenced if the medical condition
19 is reflected in any record or document completed or obtained
20 in accordance with the system's medical protocols pursuant to
21 section 400.8, or in any other record or document obtained
22 pursuant to an application for disability benefits from the
23 system, if such record or document existed prior to the date
24 membership commenced. A member who is denied a benefit under
25 this subsection, by reason of a finding by the medical board
26 that the member is not mentally or physically incapacitated
27 for the further performance of duty, shall be entitled to
28 be restored to active service in the same position held
29 immediately prior to the application for disability benefits.
30 **b.** If a member in service or the chief of the police or
31 fire departments becomes incapacitated for duty as a natural
32 or proximate result of an injury or disease incurred in or
33 aggravated by the actual performance of duty ~~at some definite~~
34 ~~time or place~~ or arising out of or in the course of the
35 employment, or while acting, pursuant to order, outside the

1 city by which the member is regularly employed, the member,
 2 upon being found to be temporarily incapacitated following a
 3 medical examination as directed by the city, is entitled to
 4 receive the member's full pay and allowances from the city's
 5 general fund or trust and agency fund until reexamined as
 6 directed by the city and found to be fully recovered or until
 7 the city determines that the member is likely to be permanently
 8 disabled. If the temporary incapacity of a member continues
 9 more than sixty days, or if the city expects the incapacity
 10 to continue more than sixty days, the city shall notify the
 11 system of the temporary incapacity. Upon notification by a
 12 city, the system may refer the matter to the medical board for
 13 review and consultation with the member's treating physician
 14 during the temporary incapacity. Except as provided by this
 15 paragraph, the board of trustees of the statewide system has no
 16 jurisdiction over these matters until the city determines that
 17 the disability is likely to be permanent.

18 Sec. 5. Section 411.6, subsection 5, paragraph c,
 19 subparagraph (1), Code 2021, is amended to read as follows:

20 (1) Disease under **this subsection** shall mean heart disease
 21 or any disease of the lungs or respiratory tract and shall
 22 be presumed to have been contracted while on active duty as
 23 a result of strain, or contact with or the inhalation of
 24 respiratory droplets, noxious fumes, poison, or gases.

25 Sec. 6. Section 411.6, subsection 5, Code 2021, is amended
 26 by adding the following new paragraph:

27 NEW PARAGRAPH. *Od.* Disease under this subsection shall
 28 also mean any incapacitating mental disorder arising out of
 29 and in the course of the employment, or while acting, pursuant
 30 to order, outside the city by which the member is regularly
 31 employed. A disease shall qualify as an incapacitating mental
 32 disorder irrespective of the absence of similar effects on
 33 other members.

34 Sec. 7. Section 411.6, subsection 6, Code 2021, is amended
 35 by adding the following new paragraph:

1 NEW PARAGRAPH. *d.* (1) Upon a determination on or after
2 July 1, 2020, that an ordinary disability beneficiary is
3 entitled to a retirement for accidental disability, the
4 beneficiary shall receive an accidental disability retirement
5 allowance which shall consist of a pension in an amount that is
6 equal to the greater of sixty percent of the member's average
7 final compensation or the retirement allowance that the member
8 would receive under subsection 2 if the member had attained
9 fifty-five years of age, or an amount equal to the ordinary
10 disability retirement allowance previously received by the
11 beneficiary, whichever is greater.

12 (2) An accidental disability allowance under this paragraph
13 shall commence effective the first day of the first month
14 following the determination that the ordinary disability
15 beneficiary is entitled to a retirement for accidental
16 disability.

17 Sec. 8. Section 411.6, subsection 9, paragraph a,
18 subparagraph (1), Code 2021, is amended to read as follows:

19 (1) If, upon the receipt of evidence and proof from the
20 chief of the police or fire department that the death of a
21 member in service was the natural and proximate result of an
22 injury or disease incurred in or aggravated by the actual
23 performance of duty ~~at some definite time and place~~ or arising
24 out of and in the course of the employment, or while acting
25 pursuant to order, outside of the city by which the member is
26 regularly employed, the system decides that death was so caused
27 in the performance of duty, there shall be paid, in lieu of the
28 ordinary death benefit provided in [subsection 8](#), an accidental
29 death benefit as set forth in [this subsection](#).

30 Sec. 9. Section 411.6, subsection 16, Code 2021, is amended
31 by adding the following new paragraph:

32 NEW PARAGRAPH. *d.* A person otherwise eligible to receive an
33 ordinary or accidental disability retirement benefit under this
34 chapter shall not be eligible to receive such a benefit if the
35 person is subsequently terminated or removed by the employing

1 city of the person pursuant to section 400.18 or 400.19, or
 2 other comparable process. Upon determination of ineligibility
 3 pursuant to this paragraph, the person's entitlement to a
 4 disability benefit under this chapter shall terminate and any
 5 disability retirement allowance received by such a person must
 6 be returned to the system together with interest earned on the
 7 disability retirement allowance calculated at a rate determined
 8 by the system. However, the determination of ineligibility
 9 as provided under this paragraph may be waived for good cause
 10 as determined by the board. The burden of establishing good
 11 cause is on the person who received the disability retirement
 12 allowance.

13 Sec. 10. Section 411.8, subsection 1, paragraph f,
 14 subparagraph (8), Code 2021, is amended to read as follows:

15 (8) Beginning July 1, 1996, and each fiscal year thereafter,
 16 an amount equal to the member's contribution rate times each
 17 member's compensation shall be paid to the fund from the
 18 earnable compensation of the member. For the purposes of this
 19 subparagraph, the member's contribution rate shall be nine
 20 and thirty-five hundredths percent ~~or, beginning July 1, 2009~~
 21 until June 30, 2009, nine and four-tenths percent until June
 22 30, 2021, or, beginning July 1, 2021, nine and fifty-five
 23 hundredths percent. However, the system shall increase the
 24 member's contribution rate as necessary to cover any increase
 25 in cost to the system resulting from statutory changes which
 26 are enacted by any session of the general assembly meeting
 27 after January 1, 1991, if the increase cannot be absorbed
 28 within the contribution rates otherwise established pursuant to
 29 this paragraph, but subject to a maximum employee contribution
 30 rate of eleven and three-tenths percent or, beginning July
 31 1, 2009, eleven and thirty-five hundredths percent. The
 32 contribution rate increases specified in 1994 Iowa Acts, ch.
 33 1183, pursuant to [this chapter](#) and [chapter 97A](#) shall be the
 34 only member contribution rate increases for these systems
 35 resulting from the statutory changes enacted in 1994 Iowa

1 Acts, ch. 1183, and shall apply only to the fiscal periods
 2 specified in 1994 Iowa Acts, ch. 1183. After the employee
 3 contribution reaches eleven and three-tenths percent or eleven
 4 and thirty-five hundredths percent, as applicable, sixty
 5 percent of the additional cost of such statutory changes shall
 6 be paid by employers under paragraph "c" and forty percent
 7 of the additional cost shall be paid by employees under this
 8 paragraph.

9 Sec. 11. Section 411.15, Code 2021, is amended to read as
 10 follows:

11 **411.15 Hospitalization and medical attention.**

12 1. a. Cities shall provide hospital, nursing, and medical
 13 attention for the members of the police and fire departments
 14 of the cities, when injured while in the performance of their
 15 duties as members of such department, and or for injuries and
 16 diseases arising out of and in the course of the employment.

17 b. Cities shall continue to provide hospital, nursing, and
 18 medical attention for injuries or diseases incurred while in
 19 the performance of their duties or arising out of and in the
 20 course of the employment for members or beneficiaries receiving
 21 a retirement allowance under section 411.6, subsection 6.

22 2. a. Cities may fund the cost of the hospital, nursing,
 23 and medical attention required by this section through the
 24 purchase of insurance, by self-insuring the obligation, or
 25 through payment of moneys into a local government risk pool
 26 established for the purpose of covering the costs associated
 27 with the requirements of this section. However, the cost of
 28 the hospital, nursing, and medical attention required by this
 29 section shall not be funded through an employee-paid health
 30 insurance policy.

31 b. A member or beneficiary shall not be required to pay the
 32 cost of the hospital, nursing, and medical attention required
 33 by this section, including but not limited to any costs
 34 or premiums associated with any insurance policy providing
 35 coverage for the hospital, nursing, and medical attention.

1 c. The cost of the hospital, nursing, and medical attention
 2 required by this section shall be paid from moneys held in a
 3 trust and agency fund established pursuant to section 384.6,
 4 or out of the appropriation for the department to which the
 5 injured person belongs or belonged; provided that any amounts
 6 received by the injured person from any other source for such
 7 specific purposes, shall be deducted from the amount paid by
 8 the city under the provisions of this section.

9 3. a. For purposes of this subsection, "date of the
 10 occurrence of the injury or disease" means the date that the
 11 member or beneficiary knew or should have known that the injury
 12 or disease was work-related.

13 b. To be provided the cost of the hospital, nursing, and
 14 medical attention required by this section, the city or the
 15 city's representative shall have actual knowledge of the
 16 occurrence of an injury or disease or be provided notice of the
 17 occurrence of an injury or disease on behalf of a member or
 18 beneficiary within ninety days from the date of the occurrence
 19 of the injury or disease.

20 c. An action to require the city to provide the cost of
 21 the hospital, nursing, and medical attention required by this
 22 section shall not be maintained unless the action is commenced
 23 within two years from the date of the occurrence of the injury
 24 or disease or two years from the date the city denies a claim to
 25 provide hospital, nursing, and medical attention required by
 26 this section, whichever last occurs.

27 Sec. 12. NEW SECTION. 411.15A **Infectious diseases —**
 28 **quarantine — employment rights.**

29 1. A member of the police or fire department of a city
 30 shall be granted a leave of absence if the member may have been
 31 exposed to an infectious disease while in the performance of
 32 their duty as a member of such department and is required or
 33 recommended to quarantine for a period of time or place of
 34 isolation, including isolation at home, by the city or the
 35 member's health care provider, in accordance with guidance or

1 orders from the centers for disease control and prevention of
2 the United States department of health and human services,
3 department of public health, the governor, or a local public
4 health authority.

5 2. A member who is granted a leave of absence under this
6 section shall receive leave without loss of seniority, pay,
7 vacation time, personal days, sick leave, insurance and health
8 coverage benefits, or earned overtime accumulation. The member
9 shall be compensated at the employee's regular rate of pay for
10 those regular work hours during which the employee is absent
11 from work from the city's general fund or trust and agency
12 fund.

13 Sec. 13. IMPLEMENTATION OF ACT. Section 25B.2, subsection
14 3, shall not apply to the section of this Act enacting section
15 411.15A.

16 Sec. 14. RETROACTIVE APPLICABILITY. The following apply
17 retroactively to January 1, 2020, for purposes of section
18 411.15A as enacted in this Act:

19 1. The section of this Act amending section 411.1,
20 subsection 11.

21 2. The section of this Act enacting section 411.15A.

22 Sec. 15. EFFECTIVE DATE. The following, being deemed of
23 immediate importance, take effect upon enactment:

24 1. The section of this Act amending section 411.1,
25 subsection 11.

26 2. The section of this Act enacting section 411.15A.

27 EXPLANATION

28 The inclusion of this explanation does not constitute agreement with
29 the explanation's substance by the members of the general assembly.

30 This bill concerns benefits to members under the municipal
31 fire and police retirement system established under Code
32 chapter 411.

33 Code section 411.1, concerning definitions, is amended. The
34 bill defines an "ordinary disability beneficiary" as a member
35 retired on an ordinary disability retirement benefit for five

1 years or less. The bill also amends the definition of "member
2 in good standing" to mean any member in service who has not
3 been terminated by the employing city of the member. The bill
4 also amends the definition of "infectious disease" to include
5 blood borne contagious diseases and any other disease or virus
6 determined to be life-threatening that has been declared a
7 pandemic, epidemic, or public health emergency. The amended
8 definition of "infectious disease" takes effect upon enactment
9 and applies retroactively to January 1, 2020, for purposes of
10 the provision of new Code section 411.15A as provided in the
11 bill.

12 Code section 411.6(5), concerning accidental disability
13 benefits, is amended to allow an ordinary disability
14 beneficiary to make application to the retirement system for an
15 accidental disability retirement benefit. The subsection is
16 further amended to provide that a person is entitled to pay and
17 allowances if determined to be temporarily incapacitated prior
18 to an accidental disability retirement determination and for
19 an accidental disability retirement if the person has become
20 totally and permanently incapacitated as a result of injury and
21 disease arising out of and in the course of the employment and
22 by the actual performance of duty without regard to whether
23 that actual performance of duty was at some definite time and
24 place. The subsection is also amended to provide that disease
25 for purposes of an accidental disability benefit also means any
26 incapacitating mental disorder arising out of and in the course
27 of the employment, or while acting, pursuant to order, outside
28 the city by which the member is regularly employed.

29 Code section 411.6(6), providing for a retirement allowance
30 upon retirement for accidental disability, is amended to
31 provide that an ordinary disability beneficiary who is
32 determined to be entitled to a retirement for accidental
33 disability shall receive a retirement allowance that shall
34 consist of the greater of an amount as determined for members
35 receiving an accidental disability retirement or an amount

1 equal to the disability retirement allowance previously
2 received by the beneficiary.

3 Code section 411.6(9), concerning accidental death benefits,
4 is amended to provide that an accidental death benefit shall
5 also be paid if the death was as a result of injury and disease
6 arising out of and in the course of the employment or by the
7 actual performance of duty without regard to whether that
8 actual performance of duty was at some definite time and place.

9 Code section 411.6(16), concerning ineligibility for
10 disability benefits, is amended to provide that a person
11 otherwise eligible to receive a disability retirement shall
12 not be eligible if the person is terminated or removed by the
13 employing city of the person pursuant to Code section 400.18
14 or 400.19, or other comparable process. The bill provides for
15 the repayment of benefits paid prior to the determination of
16 ineligibility.

17 Code section 411.8, concerning the method of financing
18 the retirement system, is amended by increasing the employee
19 contribution rate from 9.4 percent of pay to 9.55 percent of
20 pay beginning July 1, 2021.

21 Code section 411.15, concerning cities' requirement to
22 provide hospitalization and medical attention for injuries
23 or diseases while on duty, is amended to provide that such
24 attention shall also be provided for injuries arising out of
25 and in the course of employment. The Code section is further
26 amended to provide that cities shall continue to provide
27 hospitalization and medical attention for injuries or diseases
28 while on duty for members or beneficiaries receiving any
29 retirement allowance under Code section 411.6 and not just an
30 accidental disability retirement allowance under Code section
31 411.6, subsection 6. The Code section is further amended
32 to provide that a member shall not be required to pay the
33 cost of hospital, nursing, and medical attention required,
34 including payment of any costs or premiums associated with any
35 insurance policy providing coverage. The bill further provides

1 that to be provided the cost of the hospital, nursing, and
2 medical attention, the city shall have actual knowledge of the
3 occurrence of an injury or disease or be provided notice of
4 the occurrence of an injury or disease on behalf of a member
5 or beneficiary within 90 days from the date of the occurrence
6 of the injury or disease. The bill provides that an action to
7 require the city to provide the cost of the hospital, nursing,
8 and medical attention shall not be maintained unless the action
9 is commenced within two years from the date of the occurrence
10 of the injury or disease or two years from the date the city
11 denies a claim to provide hospital, nursing, and medical
12 attention, whichever last occurs.

13 New Code section 411.15A provides that a member of a police
14 or fire department of a city shall be granted a leave of
15 absence without loss of pay and benefits if the member may have
16 been exposed to an infectious disease and is required to be
17 quarantined. The new Code section provides that compensation
18 provided under this Code section shall be from the city's
19 general fund or trust and agency fund. This new Code section
20 takes effect upon enactment and applies retroactively to
21 January 1, 2020. In addition, this new Code section may
22 include a state mandate as defined in Code section 25B.3.
23 The bill makes inapplicable Code section 25B.2, subsection
24 3, to this new Code section which would relieve a political
25 subdivision from complying with a state mandate if funding for
26 the cost of the state mandate is not provided or specified.
27 Therefore, political subdivisions are required to comply with
28 any state mandate included in this new Code section.